IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.536 OF 2005

M/s Kundan Agencies (P)Ltd. & Anr. ...Petitioners

V/s

Deawoo Anchor Electronics Ltd. & Anr. .. Respondents

Mr. J.K. Hegde for petitioners

Shri A.M. Shringarpure, APP for the State.

Coram : V.M. Kanade, J.

Dated : 05/04/2005.

P.C. :-

1 I have heard the learned counsel for the petitioners and APP for the State.

2 The petitioners are challenging the order of issuance of process passed by the Metropolitan Magistrate on the complaint filed by the complainant/respondent No.1 under section 138 of Negotiable Instruments Act. The contention of the petitioner is that a blank cheque was given to the complainant as security without any consideration and not for encashment and there was no debt or liability due and payable to the complainant. The learned counsel for the petitioners has taken me to the

correspondence and also to the documents on the basis of which he has contended that a blank cheque was given to the complainant. On the basis of this, it is submitted that there was no existing debt or liability and, therefore, the complaint is liable to be quashed. It is not possible to accept the submission made by the learned counsel for the petitioners. In my view, all these questions raised in this petition are to be decided by the trial court only after evidence is lead by both parties. There is no reason to interfere with the order passed by the Metropolitan Magistrate issuing process. All the questions raised in this petition are kept open. The trial court shall not be influenced in any way by the observations made by this court while deciding the case.

3 The petitioners are granted exemption from appearing in the trial court. The Magistrate may direct the accused to remain present only at the time of recording their statements under section 313 of the Code or any date when their presence is absolutely necessary.With these directions, criminal writ petition is dismissed.

4 It is clarified that if a proposal is made by the petitioners for settling the matter with the respondents, the same may be taken into consideration by the learned Magistrate.

(V.M. Kanade, J.)